

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1077
Appropriations Committee Substitute Adopted 7/13/93

Short Title: Prison Bond Funds.

(Public)

Sponsors:

Referred to: Finance.

May 10, 1993

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE THE BALANCE OF THE FUNDS FROM THE PROCEEDS OF THE TWO HUNDRED MILLION DOLLARS IN GENERAL OBLIGATION BONDS AUTHORIZED FOR THE CONSTRUCTION OF STATE PRISON AND YOUTH SERVICES FACILITIES, AND TO PROVIDE FOR THE USE OF INMATES IN PRISON CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. **General Purposes.** The appropriations hereby made by the 1993 General Assembly for capital improvements from the proceeds of the two hundred million dollar (\$200,000,000) State of North Carolina Prison and Youth Services Facilities Bonds authorized by Chapter 935 of the 1989 Session Laws (the "Bond Act") and approved by the qualified voters of the State who voted thereon on November 6, 1990, as said bonds may be issued from time to time (the "bonds"), are for the purposes of financing the cost of eighty-seven million five hundred thousand dollars (\$87,500,000) of State prison facilities and youth services facilities, including, without limitation, the cost of constructing capital facilities, renovating or reconstructing existing facilities, acquiring equipment related thereto, purchasing land, paying costs of issuance of bonds and notes, and paying contractual services necessary for the partial implementation of the purposes of the Bond Act, all as defined in and authorized by the Bond Act and as more particularly described in this act.

Sec. 2. **Appropriation Procedures.** The appropriations hereby made by the 1993 General Assembly for the purposes under the Bond Act shall be disbursed for the particular projects authorized by this act. Expenditure of funds shall not be made by

1 any State department, institution, or agency, until an allotment has been approved by the
 2 Governor as Director of the Budget. The allotment shall be approved only after full
 3 compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General
 4 Statutes.

5 Where direct capital improvement appropriations include furnishing fixed and
 6 movable equipment for any project, funds for equipment shall not be subject to transfer
 7 into construction accounts except as authorized by the Director of the Budget. The
 8 expenditure of funds for fixed and movable equipment and furnishings shall be
 9 reviewed and approved by the Director of the Budget prior to commitment of funds.

10 Capital improvement projects authorized by this act shall be completed,
 11 including fixed and movable equipment and furnishings, within the limits of the
 12 amounts of the appropriations provided, except as otherwise provided in this act.

13 **Sec. 3. Descriptions, Custodial Levels, Beds, Projected Allocations.**
 14 Appropriations are made from bond proceeds for use by the Department of Correction
 15 to provide for capital improvement projects as herein provided.

16 The proceeds of bonds and notes shall be expended for paying the cost, as
 17 defined in the Bond Act, of prison facilities, to the extent and as provided in this act and
 18 subject to change as herein provided, for the following projects:

<u>Project Description</u>	<u>Custodial</u>	<u>Beds</u>
	<u>Level</u>	
22 NEW FACILITIES		
23 Eastern Processing Center		
24 at Vanceboro	Medium	544
25 Hyde Correctional Center	Medium	520
26 East Work Facility	Minimum	500
27 West Work Facility	Minimum	500
28 Boot Camp - West	Minimum	90
29		
30 FACILITY EXPANSIONS		
31 Marion Close 192		
32 Franklin Medium 104		
33 Harnett Medium 104		
34 Johnston Medium 104		
35 Lumberton Medium 104		
36 Morrison Medium 208		
37 NCCIW Medium 50		
38 Bladen Minimum 100		
39 Caldwell Minimum 50		
40 Carteret Minimum 100		
41 Cherry Minimum 100		
42 Davidson Minimum 50		
43 Fountain Minimum 100		
44 Greene Minimum 50		

1	Pasquotank	Minimum	200
2	Robeson	Minimum	50
3	Rowan	Minimum	50
4	Rutherford	Minimum	50
5	Sanford	Minimum	50
6	Umstead	Minimum	100
7	Wake	Minimum	100
8	Wilkes	Minimum	<u>50</u>
9			4,220
10	Subtotal	\$84,984,490	
11			
12	Contingencies		<u>2,515,510</u>
13			
14	TOTAL		\$87,500,000

15
 16 Sec. 4. **Increases in Allocations for Projects.** Allocations made for projects
 17 may be increased to reflect the availability of other funds, including, without limitation,
 18 contingency funds, income earned on the investment of bond and note proceeds, and the
 19 proceeds of any grants.

20 Sec. 5. **Contingency Funds.** The amount allocated for contingencies set
 21 forth above shall be placed by the State Treasurer in a special account in the State
 22 Prison and Youth Services Facilities Bond Fund to be designated the "State Prison and
 23 Youth Services Facilities Contingency Account". The funds in the State Prison and
 24 Youth Services Facilities Contingency Account shall be disbursed in accordance with
 25 the procedures herein established for disbursements from the State Prison and Youth
 26 Services Facilities Bond Fund. The funds in the State Prison and Youth Services
 27 Facilities Contingency Account shall be expended for paying the cost of projects,
 28 including, without limitation, the costs of issuance of bonds and notes, increased project
 29 costs resulting from construction costs exceeding projected costs, inflationary factors,
 30 and changes in projects and allocations.

31 Any balance in the State Prison and Youth Services Facilities Contingency
 32 Account may be used for particular prison construction or renovation projects as the
 33 Governor as Director of the Budget may direct.

34 Sec. 6. **Administration.** With respect to facilities authorized for the
 35 Department of Correction, the Office of State Construction of the Department of
 36 Administration may contract for and supervise all aspects of administration, technical
 37 assistance, design, construction, or demolition of prison facilities in order to implement
 38 the providing of prison facilities under the provisions of this act.

39 The facilities authorized under this act shall be constructed in accordance
 40 with the provisions of general law applicable to the construction of State facilities. If
 41 the Secretary of Administration, after consultation with the Secretary of Correction,
 42 finds that the delivery of prison facilities must be expedited for good cause, the Office
 43 of State Construction of the Department of Administration may use alternative delivery
 44 systems and shall be exempt from the following statutes and rules implementing those

1 statutes, to the extent necessary to expedite delivery: G.S. 143-135.26(1), 143-128, 143-
2 129, 143-131, 143-132, 143-134, 143-135.26, 113A-1 through 113A-10, 113A-50
3 through 113A-66, 133-1.1(g), and 143-408.1.

4 Prior to exercising the exemptions allowable under this section, the Secretary
5 of Administration shall give reasonable notice in writing of the Department's intent to
6 exercise the exemptions to the Speaker of the House, the President Pro Tempore of the
7 Senate, the Chairs of the House and Senate Appropriations Committees, the Chairs of
8 the House and Senate Appropriations Subcommittees on Justice and Public Safety, and
9 the Fiscal Research Division. The written notice shall contain at least the following
10 information: (i) the specific statutory requirement or requirements from which the
11 Department intends to exempt itself; (ii) the reason the exemption is necessary to
12 expedite delivery of prison facilities; (iii) the way in which the Department anticipates
13 the exemption will expedite the delivery of prison facilities; and (iv) a brief summary of
14 the proposed contract for the project which is to be exempted.

15 The Office of State Construction of the Department of Administration shall
16 have a verifiable ten percent (10%) goal for participation by minority and women-
17 owned businesses. All contracts for the design, construction, or demolition of prison
18 facilities shall include a penalty for failure to complete the work by a specified date.

19 The Office of State Construction of the Department of Administration shall
20 consider alternative delivery systems that could expedite the delivery of prison facilities.
21 Such delivery systems as design-build, using modular or conventional building systems,
22 shall be considered. However, in order for such alternatives to be used, the Department
23 of Correction must approve the proposed design for operational programming and cost
24 of operations and maintenance.

25 The Office of State Construction of the Department of Administration shall
26 involve the Department of Correction in all aspects of the projects to the extent that
27 such involvement relates to the Department's program needs and to its responsibility for
28 the care of the prison population.

29 **Sec. 7. Changes.** To the extent that funds are not required to be expended
30 for the specific projects described in this act, appropriations authorized herein may be
31 used to complete project elements which could not be funded with the appropriations
32 made in Section 239 of Chapter 689 of the 1991 Session Laws. Funds may also be used
33 to construct, reconstruct, or renovate prison industrial and forestry enterprises facilities,
34 as mentioned in G.S. 148-2, at prison facilities statewide, as replacement projects, and
35 to make necessary prison facility repairs and renovations but no such funds may be used
36 for operating expenditures. Prior to taking any action under this section, the Governor
37 may consult with the Advisory Budget Commission.

38 **Sec. 8. Quarterly Reports.** The Office of State Construction of the
39 Department of Administration shall provide quarterly reports to the Chairs of the
40 Appropriations Committee and the Base Budget Committee in the Senate, the Chairs of
41 the Appropriations Committee in the House, the Joint Legislative Commission on
42 Governmental Operations, and the Fiscal Research Division as to any changes in
43 projects and allocations made under this act. The report shall include any changes in the
44 projects and allocations made pursuant to this act, information on which contractors

1 have been selected, what contracts have been entered into, the projected and actual
2 occupancy dates of facilities contracted for, the number of beds to be constructed on
3 each project, the location of each project, and the projected and actual cost of each
4 project.

5 The Department of Insurance and the Department of Correction shall report
6 quarterly to the Joint Legislative Commission on Governmental Operations on their
7 involvement in the prison construction program.

8 Sec. 9. **Unexpended Funds.** To the extent that funds remain unexpended,
9 they shall be subject to further reallocation or reappropriation by the General Assembly
10 for purposes permitted by the Bond Act.

11 Sec. 10. Sections 1 through 4 of Chapter 1036 of the 1991 Session Laws are
12 repealed.

13 Sec. 11. (a) The State may require contractors awarded bids for construction of
14 facilities funded by the remaining eighty-seven million five hundred thousand dollars
15 (\$87,500,000) of the two hundred million dollars (\$200,000,000) in bond proceeds,
16 authorized by Chapter 935 of the 1989 Session Laws and appropriated in this act, to use
17 a work force that includes inmates provided to the contractors by the Department of
18 Correction; the requirement may provide that such inmates may compose up to twenty
19 percent (20%) of the contractor's work force. The Office of State Construction and the
20 Department of Correction shall report quarterly to the Joint Legislative Commission on
21 Governmental Operations, the Chairs of the House and Senate Appropriations
22 Subcommittees on Justice and Public Safety, and the Fiscal Research Division on the
23 use of inmates by private contractors.

24 (b) The Department of Correction shall report quarterly to the Joint Legislative
25 Commission on Governmental Operations, the Chairs of the House and Senate
26 Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research
27 Division on the inmate construction program used to construct the East Work Facility
28 and the West Work Facility.

29 Sec. 12. If additional funds are needed beyond the six million six hundred
30 thirty thousand eight hundred sixty-six dollars (\$6,630,866) authorized and allocated
31 from the one hundred twelve million five hundred thousand dollars (\$112,500,000) in
32 bond proceeds by Section 239 of Chapter 689 of the 1991 Session Laws, as amended by
33 Section 41(a) of Chapter 1044 of the 1991 Session Laws, for projects at the North
34 Carolina Correctional Institution for Women, those projects, with the exception of the
35 demolition of dormitories A, B, and C, shall be completed with funds from the five
36 million dollars (\$5,000,000) authorized for use by the Department of Correction for
37 repair and renovation in the Current Operations Appropriations Act of 1993. The
38 projects include a 48-bed special housing facility, an operations center, and a gatehouse.
39 In no case shall any funds allocated for these projects at the North Carolina Correctional
40 Institution for Women be allocated or used for any other project.

41 Sec. 13. This act becomes effective July 1, 1993.